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Brad W. Buss, Robyn Denholm, Ira Ehrenpreis,  
Antonio J. Gracias, James Murdoch, Kimbal Musk,  
and Linda Johnson Rice*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE TESLA, INC. SECURITIES  
LITIGATION

Case No. 3:18-cv-04865-EMC

**DEFENDANTS' SECOND AMENDED  
PROPOSED VERDICT FORM**

**DEFENDANTS' SECOND AMENDED PROPOSED VERDICT FORM**

**A. RULE 10B-5 CLAIM: LIABILITY**

**Tweet 1: Am considering taking Tesla private at \$420. Funding secured.**

1. Did the Plaintiff prove that the statement "Funding secured" in the tweet "Am considering taking Tesla private at \$420. Funding secured" was materially false or materially misleading?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

*If you answered yes, then answer question 2. If you answered no, stop here and move on to Tweet 2 on the next page.*

2. Did the Plaintiff prove that the statement "Funding secured" was made by the Defendant(s)?

Elon Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Tesla: Yes: \_\_\_\_\_ No: \_\_\_\_\_

*If you answered yes as to one or both Defendants, answer question only 3 as to the same Defendant(s). If you answered no to both Defendants, stop here and move on to Tweet 2 on the next page.*

3. Did the Plaintiff prove that the Defendant(s) made the statement "Funding secured" with actual knowledge or deliberate recklessness that the statement was materially false or materially misleading?

Elon Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Tesla: Yes: \_\_\_\_\_ No: \_\_\_\_\_

PLEASE PROCEED TO TWEET 2 ON THE NEXT PAGE

**Tweet 2: “Investor support is confirmed. Only reason why this is not certain is that it’s contingent on a shareholder vote.”**

4. Did the Plaintiff prove that Tweet 2 was materially false or materially misleading?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

*If you answered yes, then answer question 6. If you answered no, stop here and move on to the instructions at the bottom of the page.*

5. Did the Plaintiff prove that Tweet 2 was made by the Defendant(s)?

Elon Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Tesla: Yes: \_\_\_\_\_ No: \_\_\_\_\_

*If you answered yes as to one or both Defendants, answer question only 6 as to the same Defendant(s). If you answered no to both Defendants, stop here and move on to the instructions at the bottom of the page.*

6. Did the Plaintiff prove that the Defendant(s) made Tweet 2 with actual knowledge or deliberate recklessness that the statement was materially false or materially misleading?

Elon Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Tesla: Yes: \_\_\_\_\_ No: \_\_\_\_\_

If you answered yes to either Defendant in questions 3 or 6, move on to question 7 on the next page. If you did not, you are finished with the Verdict Form. Please turn to the last page, sign and date the Verdict Form and inform the Court you have finished.

1 7. Did the Plaintiff prove reliance?

2 Yes: \_\_\_\_\_ No: \_\_\_\_\_

3 *If you answered yes, then answer questions 8 and 9. If you answered no, you are finished with the*  
4 *Verdict Form. Please turn to the last page, sign and date the Verdict Form and inform the Court you have*  
5 *finished.*

6 8. On what date did the market learn the truth about the information that was allegedly misstated  
7 in Tweet 1 and/or Tweet 2?

8 Date: \_\_\_\_\_

9 9. Did the Plaintiff prove that the statement(s) referenced in Questions 1 and 4 caused the Plaintiff  
10 to suffer losses?

11 Yes: \_\_\_\_\_ No: \_\_\_\_\_

12 *If you answered yes, please proceed to **Part B**, below. If you answered no, you are finished with*  
13 *the Verdict Form. Please turn to the last page, sign and date the Verdict Form and inform the Court you*  
14 *have finished.*

**B. RULE 10B-5 CLAIM: DAMAGES**

1. Did Plaintiff prove the amounts of artificial inflation listed in the table below and that they were caused by material misstatements caused by Defendant(s)?

	07- Aug	08- Aug	09- Aug	10- Aug	13- Aug	14- Aug	15- Aug	16- Aug	17- Aug
(\$/share)	\$66.67	\$57.44	\$39.55	\$42.59	\$43.51	\$34.74	\$25.79	\$22.55	\$N/A

Yes: \_\_\_\_\_ No: \_\_\_\_\_

2. On what date did the market price of Tesla stock return to the level it would have been trading at absent any material misstatements?

Date: \_\_\_\_\_

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PLEASE PROCEED TO THE NEXT PAGE.

3. Has Plaintiff proven what the implied volatilities for each Tesla stock option traded during each day of the Class Period would have been but for Tweet 1 and/or Tweet 2?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

4. If you answered “Yes” to Question 3, determine the “but for” implied volatility percentages proved by Plaintiffs for each option contract maturity date during the Class Period and write it in the table below

		Day of Class Period at Close of Market							
		07-Aug	08-Aug	09-Aug	10-Aug	13-Aug	14-Aug	15-Aug	16-Aug
Maturity Date	Aug 10, 2018				NA	NA	NA	NA	NA
	Aug 17, 2018								
	Aug 24, 2018								
	Aug 31, 2018								
	Sep 7, 2018								
	Sep 14, 2018								
	Sep 21, 2018								
	Sep 28, 2018								
	Oct 19, 2018								
	Nov 16, 2018								
	Dec 21, 2018								
	Jan 18, 2019								
	Feb 15, 2019								
	Mar 15, 2019								
	Jun 21, 2019								
	Aug 16, 2019								
	Jan 17, 2020								

5. For each Note, did Plaintiff prove the amounts of artificial inflation listed in the table below and that they were caused by Defendant(s)?

	07-Aug	08-Aug	09-Aug	10-Aug	13-Aug	14-Aug	15-Aug	16-Aug	17-Aug
2019 Note	\$4.49	\$3.23	\$1.85	\$2.30	\$2.83	\$2.87	\$2.43	\$2.17	\$0.00
2021 Note	\$6.17	\$4.44	\$2.54	\$3.16	\$3.88	\$3.95	\$3.34	\$2.99	\$0.00
2022 Note	\$6.26	\$4.50	\$2.58	\$3.20	\$3.94	\$4.00	\$3.38	\$3.03	\$0.00

Yes: \_\_\_\_\_ No: \_\_\_\_\_

PLEASE PROCEED TO THE NEXT PAGE

**C. SECTION 20(A) CLAIM: LIABILITY**

**Question No. 1:**

Has Plaintiff proved the Section 20(a) Claim as to any of the Tesla Director Defendants (**check all that apply**):

Brad W. Buss: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Robyn Denholm: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Ira Ehrenpreis: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Antonio J. Gracias: Yes: \_\_\_\_\_ No: \_\_\_\_\_

James Murdoch: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Kimbal Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Linda Johnson Rice: Yes: \_\_\_\_\_ No: \_\_\_\_\_

**Question No. 2:**

If you answered “Yes” in response to Question No. 1 as to any Defendant, have Defendants proved a Good Faith Defense as to that Defendant (**check all that apply**):

Brad W. Buss: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Robyn Denholm: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Ira Ehrenpreis: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Antonio J. Gracias: Yes: \_\_\_\_\_ No: \_\_\_\_\_

James Murdoch: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Kimbal Musk: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Linda Johnson Rice: Yes: \_\_\_\_\_ No: \_\_\_\_\_

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PLEASE PROCEED TO SECTION D ON THE NEXT PAGE.

**D. ALLOCATION OF RESPONSIBILITY****Question No. 1:**

If Plaintiff proved a Rule 10b-5 Claim and/or Section 20(a) Claim against any Defendant, did that Defendant act with “actual knowledge” or “deliberate recklessness”?

Only answer this question as to the Defendants against whom you found Plaintiff proved a claim.

Answer the following question only as to the statements for which Plaintiff proved Rule 10(b)-5 liability.

**Statement 1: “Funding secured”**

Elon Musk: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Tesla: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Brad W. Buss: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Robyn Denholm: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Ira Ehrenpreis: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Antonio J. Gracias: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

James Murdoch: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Kimbal Musk: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Linda Johnson Rice: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

**Statement 2: Tweet 2**

Elon Musk: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Tesla: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Brad W. Buss: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Robyn Denholm: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Ira Ehrenpreis: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Antonio J. Gracias: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

James Murdoch: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Kimbal Musk: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

Linda Johnson Rice: Actual Knowledge: \_\_\_\_\_ Deliberate Recklessness: \_\_\_\_\_

**Question No. 2:**

If you checked “Actual Knowledge” for *all* Defendant(s) and as to *each misstatement* for which Plaintiff proved a Rule 10b-5 Claim, please skip to the final page.

If you checked “Deliberate Recklessness” for *any* Defendant(s) and as to *any* misstatement, you must determine what percentage of responsibility, if any, for the Plaintiff’s loss is due to each Defendant.

Only assign a percentage of responsibility to Defendants for whom found liable in Section A or Section C. The total must add up to 100%.

\_\_\_\_\_ % Elon Musk

\_\_\_\_\_ % Tesla

\_\_\_\_\_ % Brad W. Buss

\_\_\_\_\_ % Robyn Denholm

\_\_\_\_\_ % Ira Ehrenpreis

\_\_\_\_\_ % Antonio J. Gracias

\_\_\_\_\_ % James Murdoch

\_\_\_\_\_ % Kimbal Musk

\_\_\_\_\_ % Linda Johnson Rice

**(Total must equal 100%)**

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PROCEED TO SECTION F ON THE NEXT PAGE.

**E. RETURN OF VERDICT**

Once the form is completed, the foreperson for the jury must sign and date it below:

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_  
Jury Foreperson

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served on all counsel of record electronically or by another manner authorized under FED. R. CIV. P. 5(b) on this the 4th day of January 2023.

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Alex Bergjans

Alex Bergjans

*Attorneys for Tesla, Inc., Elon Musk, Brad W. Buss,  
Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias,  
James Murdoch, Kimbal Musk, and Linda Johnson  
Rice*